

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

LILY F. TERCERO,

*Plaintiff,*

V.

TEXAS SOUTHMOST COLLEGE  
DISTRICT AND ADELA G. GARZA,  
JUAN MENDEZ III, RUBEN HERRERA,  
RAMON CHAMPION HINOJOSA, AND  
DR. ANTONIO ZAVALETA,  
*in their official capacities as Trustees of the  
Texas Southmost College District and in  
their personal capacities,*

*Defendants.*

CIVIL ACTION NO. 1:16-CV-00282

**PLAINTIFF LILY F. TERCERO'S MOTION IN LIMINE**

COMES NOW, Plaintiff Lily F. Tercero (“Tercero” or “Plaintiff”) and makes and files this Motion in Limine and in support thereof respectfully shows the Court as follows:

Before the voir dire examination of the jury panel, and outside the presence and hearing of the jury panel, Plaintiff makes this motion in limine. Plaintiff seeks to exclude matters that are inadmissible, irrelevant, or prejudicial in this case. If Defendant Texas Southmost College District (“TSC”) injects these matters into the trial of this case through a party, an attorney, or a witness, it will cause irreparable harm to Plaintiff’s case, which no jury instruction could cure. If any of these matters are brought to the attention of the jury, directly or indirectly, Tercero will be compelled to move for a mistrial. In an effort to avoid prejudice and a mistrial. In an effort to avoid prejudice and a mistrial, Tercero urges this motion in limine.

Plaintiff asks the Court to instruct TSC and all counsel not to mention, refer to, interrogate about, or attempt to convey to the jury in any manner, either directly or indirectly, any of the matters listed below without first obtaining a ruling from the Court outside the presence and hearing of the jury, and to instruct TSC and all counsel to warn and caution each witness to follow the same instructions.

### GROUNDS

1. That this Motion has been filed, or any ruling by the Court in response to this Motion, or any suggestion or inference to the jury that Tercero has moved to prohibit proof or that the Court has excluded proof of any particular matter, nor that Plaintiff is prohibited or unable to introduce any proof, even if the reason is unspecified.

Agreed \_\_\_\_\_ Granted \_\_\_\_\_ Denied \_\_\_\_\_

Granted as modified: \_\_\_\_\_

2. Any ground for alleged good cause dismissal that is not set forth in the August 3, 2016 Notice of Proposed Action of Dismissal including, but not limited to any claim that Dr. Tercero improperly executed a four-year contract with Pearson Learning Solutions when the board only authorized a three-year contract.

The jury may only consider those matters that were before the Board at the time the good cause decision was made. The Pearson issue was not before the Board at the time the good cause decision was made. The probative value, if any, of allowing the jury to consider issues that were not previously raised is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, and misleading the jury.

Agreed \_\_\_\_\_ Granted \_\_\_\_\_ Denied \_\_\_\_\_

Granted as modified: \_\_\_\_\_

3. That summary judgment was granted in favor of TSC on the substantive due process claim. The probative value, if any, of allowing the jury to consider evidence that certain claims were disposed of by summary judgment is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, and misleading the jury.

Agreed \_\_\_\_\_ Granted \_\_\_\_\_ Denied \_\_\_\_\_

Granted as modified: \_\_\_\_\_

4. That summary judgment was granted in favor of the individual board members who were previously defendants in this lawsuit. The probative value, if any, of allowing the jury to consider evidence that certain claims were disposed of by summary judgment is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, and misleading the jury.

Agreed \_\_\_\_\_ Granted \_\_\_\_\_ Denied \_\_\_\_\_

Granted as modified: \_\_\_\_\_

Respectfully submitted,

By: /s/ Richard A. Illmer  
Richard A. Illmer  
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**HUSCH BLACKWELL L.L.P.**  
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**ATTORNEY FOR PLAINTIFF**

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of September, 2018, a true copy of the foregoing was delivered to all counsel of record via Electronic Service via the Southern District of Texas Electronic Case Filing System (ECF) as follows:

Eduardo G. Garza  
Roman "Dino" Esparza  
**ESPARZA & GARZA, L.L.P.**  
964 E. Los Ebanos Boulevard  
Brownsville, Texas 78520

/s/ Richard A. Illmer  
Richard A. Illmer